

48A C.J.S. Judges § 24

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

II. Selection, Eligibility, and Qualification

A. Selection

1. In General

§ 24. Time for selection

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  ³

Selection to a judicial office must be held at the time provided by law.

Selection to a judicial office must be held at the time provided by law.¹ In accordance with constitutional provisions, the legislature may have the power to specify the time for the selection.² A law which unnecessarily postpones the right to elect a judge is unconstitutional.³

A person cannot be selected to a judicial office which does not exist at the time of the selection.⁴ A person may, however, be nominated to fill an office when it comes into existence at a future date.⁵

Westlaw. © 2023 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

Footnotes

¹ Pa.—Commonwealth ex rel. Barratt v. McAfee, Secretary of the Commonwealth., 38 Pa. C.C. 315, 1911 WL 5014 (Pa. C.P. 1911).

Exhaustion of elective process

Cal.—Brown v. Hite, 64 Cal. 2d 120, 48 Cal. Rptr. 869, 410 P.2d 373 (1966).

² Cal.—Fields v. Eu, 18 Cal. 3d 322, 134 Cal. Rptr. 367, 556 P.2d 729 (1976).

Lack of recent exercise of power does not affect right to do so

Wis.—*State ex rel. Frederick v. Zimmerman*, 254 Wis. 600, 37 N.W.2d 473 (1949).

3 Pa.—*Commonwealth v. Maxwell*, 27 Pa. 444, 2 Phila. 224, 1856 WL 7231 (1856).

4 Miss.—*Hill v. State*, 157 Miss. 648, 128 So. 878 (1930).

As to the right to hold a judicial office as dependent on the existence of the office, see § 17.

Candidate for abolished office

Ohio—*State ex rel. Weller v. Schirmer*, 131 Ohio St. 455, 6 Ohio Op. 132, 3 N.E.2d 352 (1936).

5 Miss.—*Hill v. State*, 157 Miss. 648, 128 So. 878 (1930).

End of Document

© 2023 Thomson Reuters. No claim to original U.S. Government Works.